

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	CRIMINAL NO.: 1:05CR123
)	
v.)	Count 1 18 U.S.C. § 1425(a)
)	Unlawful Procurement of Naturalization
TARIK A. HAMDI)	
)	Count 2 18 U.S.C. § 1343
)	Wire Fraud
)	
)	Count 3 18 U.S.C. § 371
)	Conspiracy
)	
)	Forfeiture

SUPERSEDING INDICTMENT

MAY 2005 TERM -- AT ALEXANDRIA

THE GRAND JURY CHARGES THAT:

GENERAL ALLEGATIONS

1. Section 210 of the Immigration and Nationality Act provided for the granting of temporary residence status to illegal aliens who had performed field labor in perishable agricultural commodities in the United States for at least 90 man-days during the period from May 1, 1983 through May 1, 1986. A man-day was defined as any day in which the applicant performed not less than one hour of qualifying agricultural work for an employer. This method of achieving temporary residence is referred to as the “Special Agricultural Worker” program.

2. In or about July 1983, TARIK A. HAMDI first entered the United States at New York City on an F-1 student visa.

3. On or about May 27, 1988, TARIK A. HAMDI submitted an INS Form 700 (Application for Temporary Residence as a Special Agricultural Worker) to the Immigration and Naturalization Service (“INS”) in Arlington, Virginia, in an attempt to obtain temporary residence status in the United States as a Special Agricultural Worker, in which he falsely certified to the INS that, between December 1985 and April 1986, he had been employed as a Special Agricultural Worker at Lake Limestone Farm, Texas. In connection with this application he was assigned alien registration number A90 596 149.

4. In support of his application for temporary residence, TARIK A. HAMDI caused the submission of an INS Form I-705 (Affidavit Confirming Seasonal Agricultural Employment of an Applicant for Temporary Residence Under Section 210 of the Immigration & Nationality Act), which he signed as applicant and on which appeared the name “Hans Tarkenton” as the affiant, which falsely declared under penalty of perjury that TARIK A. HAMDI had been employed as a Special Agricultural Worker on Lake Limestone Farm in Falls County, Texas between December 20, 1985 and April 15, 1986.

5. On or about October 16, 1990, the INS notified TARIK A. HAMDI that his Application for Temporary Residence as a Special Agricultural Worker had been denied on the basis of fraud and misrepresentation. The notice stated that his claim of employment on Lake Limestone Farm had been refuted by a sworn statement from an individual who admitted using the name “Hans Tarkenton” to sign fictitious documents for applicants for temporary residence as agricultural workers, and further admitted that he had never been a farmer nor employed anyone to work for him or anyone else on a farm during the period TARIK A. HAMDI certified he worked on Lake Limestone Farm.

6. On or about January 10, 1991, TARIK A. HAMDI married a United States Citizen.

7. On or about April 2, 1991, TARIK A. HAMDI caused to be submitted to the INS an INS Form I-485, Application for Permanent Residence. This application for permanent residence was assigned alien registration number A71 533 599. This Application for Permanent Residence reflected that, on or about March 20, 1991, TARIK A. HAMDI falsely certified to the INS under penalty of perjury that he had never committed a crime for which he had not been arrested. In fact, as is alleged in paragraphs 3 through 5 of these General Allegations of this Superseding Indictment, TARIK A. HAMDI had attempted in 1988 to obtain temporary residence status in the United States by fraudulently representing he had been a Special Agricultural Worker in 1985 and 1986, in violation of Title 18, United States Code, Sections 1001 and 1546.

8. On or about December 17, 1991, TARIK A. HAMDI appeared before an officer of the INS and testified under oath that the contents of his INS I-485, Application for Permanent Residence, were true to the best of his knowledge, even though the application contained his false assertion that he had never committed a crime for which he had not been arrested, in violation of Title 18, United States Code, Sections 1001, 1015, and 1546. On or about December 17, 1991, TARIK A. HAMDI obtained permanent residence in the United States.

9. Beginning in or about May 1994 TARIK A. HAMDI became the North American contact and representative for the Committee for the Defense of Legitimate Rights in Saudi Arabia ("CDLR"), an organization he believed to have been founded by Saudi Dissidents 1 and 2, two Saudi dissidents living in London, England, to oppose the government of Saudi Arabia. TARIK A. HAMDI was paid approximately \$2,000 a month for his services on behalf of CDLR.

10. Between on or about July 19, 1994 and July 28, 1994, TARIK A. HAMDI applied for a loan for approximately \$121,000 to be secured by a mortgage on his residence ("the 1994

loan application”) by overstating his income and understating his liabilities. To obtain this loan, TARIK A. HAMDI and others prepared and caused to be prepared and submitted to the mortgage lender, Briner, Inc., a “Verification of Employment” which falsely stated that his income for the years 1992 through 1994 was approximately \$45,000 a year and falsely represented that he was an employee of the American Muslim Council (“AMC”) and had been employed there since November 1991. In fact, as TARIK A. HAMDI then well knew, he had completed tax returns and reported to the Internal Revenue Service (“IRS”) income for 1992 and 1993 which was substantially less than that listed on the “Verification of Employment,” and he was not and had not been an employee of the AMC. In applying for and obtaining this loan through the use of such false representations, TARIK A. HAMDI obtained money by false pretenses in violation of Title 18.2-178 of the Code of Virginia.

11. On or about November 2, 1994, TARIK A. HAMDI caused to be submitted to the INS an INS Form N-400 (Application for Naturalization), in which he certified under penalty of perjury that the contents of the application were true and correct even though, as he well knew, they were not true and correct, because:

- a. he failed to identify CDLR in response to the direction at Part 9 of the Application to list his present and past membership in or affiliation with every organization, association, fund, foundation, party, club, society, or similar group in the United States or any other place;
- b. he failed to identify CLDR in response to the direction at Part 4 of the Application to list his employers during the past five years;
- c. he falsely asserted that he had never knowingly committed a crime for which he had not been arrested, when he had committed such crimes on or about May 27, 1988, April 2, 1991, December 17, 1991, and July 28, 1994, as described in Paragraphs 3, 4, 5, 7, 8, and 10 of these General Allegations of this Superseding Indictment; and

- d. he falsely asserted that he had never given false testimony for the purpose of obtaining any immigration benefit, when he had done so on or about December 17, 1991, as described in Paragraph 8 of these General Allegations of this Superseding Indictment.

12. On or about January 31, 1995, TARIK A. HAMDI appeared before an officer of the INS and swore that the contents of the Application for Naturalization were true to the best of his knowledge and belief even though, as he well knew, they were not true and correct, for the reasons summarized in Paragraph 11 of these General Allegations of this Superseding Indictment.

13. On or about April 15, 1995, TARIK A. HAMDI completed a 1994 tax return and reported substantially less income to the IRS for 1994 than was reported for that year on the “Verification of Employment” submitted in connection with his 1994 loan application.

14. On or about April 20, 1995, TARIK A. HAMDI participated in a ceremony in which he was sworn in as a citizen of the United States of America.

15. On or about April 15, 1996, TARIK A. HAMDI completed a 1995 tax return and reported to the IRS that he and his wife together earned \$18,125 in income in 1995.

16. On or about April 15, 1997, TARIK A. HAMDI reported to the IRS that he and his wife together earned \$18,437 in income in 1996, including \$5,000 in income from AMC but no wages from that organization.

17. On or about April 30, 1997, TARIK A. HAMDI applied for a loan for approximately \$121,000 to be secured by a mortgage on his residence (the “1997 loan application”), by overstating his income and understating his liabilities. TARIK A. HAMDI certified to the mortgage lender, Financial Mortgage, Inc., that the income and liabilities that he listed in his 1997 loan application were true and correct. As he well knew, the income and liabilities that he

listed in his loan application were not true and correct because he represented that for 1997 his monthly income alone was \$4,864.

18. On or about April 30, 1997, TARIK A. HAMDI and others, prepared and caused to be prepared and submitted a false “Verification of Employment” in support of his 1997 loan application which stated that his income for the years 1995 and 1996 was \$56,869.23 and \$57,735.28, respectively; that his income for 1997 was \$4,864 a month; and that he was an employee of AMC and had been employed there since October 1991.

19. On or about April 15, 1998, TARIK A. HAMDI reported to the IRS that he and his wife together earned \$16,910 for 1997, including \$1,000 of income from AMC, but no wages from that organization.

20. On or about April 15, 1999, TARIK A. HAMDI reported to the IRS that he and his wife together earned \$13,306 for 1998, and no wages or other income from AMC.

21. Between on or about November 8, 1999 and December 28, 1999, TARIK A. HAMDI applied for a loan for approximately \$121,500 from a mortgage lender, Financial Mortgage, Inc. (the “1999 loan application”), by overstating his income and understating his liabilities. TARIK A. HAMDI certified to Financial Mortgage, Inc. that the income and liabilities that he listed in the 1999 loan application were true and correct. As he well knew, the income and liabilities that he listed in the 1999 loan application were not true and correct because he represented in the 1999 loan application that his monthly income for 1999 was \$2885.25 and that his wife’s monthly income was \$1150.

22. On or about November 8, 1999, TARIK A. HAMDI and others, prepared and caused to be prepared and submitted a “Verification of Employment” in support of the 1999 loan application which falsely stated that his income for the years 1997 and 1998 was \$31,334.36 and

\$31,963.64, respectively; that his income for 1999 was \$2508.92 a month; and that he was an employee of AMC and had been employed there since April of 1994.

23. Between on or about November 8, 1999 and December 22, 1999, TARIK A. HAMDI and others prepared and caused to be prepared and submitted W-2s for the years 1997 and 1998 in support of the 1999 loan application, which falsely stated that his wages from AMC for the years 1997 and 1998 were \$31,334.36 and \$31,963.64, respectively, when, in fact, TARIK A. HAMDI was not an employee of AMC in 1997 and 1998.

24. On or about December 28, 1999, in connection with settlement of the 1999 loan, Financial Mortgage, Inc. transferred \$119,070 by interstate wire from its bank account at Sterling Bank & Trust in Michigan to the account of "The Law Offices of Sharma & Bhandari," located at First Union National Bank in Annandale, Virginia.

COUNT 1

Procurement of Naturalization Contrary to Law

A. The grand jury incorporates and realleges the General Allegations of this Superseding Indictment as if set forth fully herein.

B. Between on or about November 2, 1994, and on or about April 20, 1995, in Arlington County, in the Eastern District of Virginia, TARIK A. HAMDI did knowingly procure his own naturalization contrary to law, in that (A) on or about November 2, 1994, he caused to be submitted to the INS an INS Form I-400, an Application for Naturalization, the contents of which he certified under penalty of perjury to be true and correct even though, as he well knew, they were not true and correct; and (B) on or about January 31, 1995, he appeared before an officer of the INS and swore that the contents of the application were true to the best of his knowledge and belief, even though, as he well knew, they were not true and correct.

C. As HAMDI well knew, his application for naturalization was not true and correct and contained false representations and concealed material facts as follows:

- i. At Part 9 (Memberships and Organizations) of the Application for Naturalization, in response to the direction to list his present and past membership in or affiliation with every organization, association, fund, foundation, party, club, society, or similar group in the United States or any other place, he failed to state that, as he then well knew, he was or had been the North American contact and representative for the Committee for the Defense of Legitimate Rights as alleged in paragraph 9 of the General Allegations of this Superseding Indictment.
- ii. At Part 4 (Information About Your Residences and Employment) of the Application for Naturalization, in response to the direction to list his employers during the last five years, he failed to state, as he then knew, that he was employed by CDLR, as alleged in paragraph 9 of the General Allegations of this Superseding Indictment.

- iii. At Part 7 (Additional Eligibility Factors) of the Application for Naturalization, in response to question 15(a), he asserted that he had never knowingly committed any crime for which he had not been arrested, when in fact as he then well knew:
 - a. On or about May 27, 1988, in an attempt to obtain temporary residence status in the United States, he falsely certified to the Immigration and Naturalization Service that, between December 1985 and April 1986, he had been employed as an agricultural worker in Falls County, Texas, in violation of Title 18, United States Code, Sections 1001 and 1546, but he had not been arrested for that offense;
 - b. On or about April 2, 1991, he caused to be submitted to the INS an INS Form I-485, Application for Permanent Residence, in which, on or about March 20, 1991, he had falsely certified to the INS under penalty of perjury that he had never committed a crime for which he had not been arrested, when in fact, as he well knew, he had attempted to defraud the INS as described in paragraphs 3 through 5 of the General Allegations section of this Superseding Indictment, in violation of Title 18, United States Code, Sections 1001 and 1546, but he had not been arrested for that offense;
 - c. On or about December 17, 1991, he appeared before an officer of the INS and falsely testified that the contents of the INS I-485, Application for Permanent Residence, were true to the best of his knowledge, and that he had never committed a crime for which he had not been arrested, when as he well knew, he had attempted to defraud the INS as described in paragraphs 3 through 5 of the General Allegations section of this Superseding Indictment, in violation of Title 18, United States Code, Sections 1001, 1015, and 1546, but he had not been arrested for that offense; and
 - d. On or about July 28, 1994, he had obtained money by false pretenses in connection with an application for a loan to be secured by a mortgage on his residence as is described in paragraph 10 of the General Allegations of this Superseding Indictment, in violation of Title 18.2-178 of the Code of Virginia, but he had not been arrested for that offense.
- iv. At Part 7 (Additional Eligibility Factors) of the Application for Naturalization, in response to question 12(g), he asserted that he had never given false testimony for the purpose of obtaining any immigration benefit, when in fact, as he then well knew, on or about December 17,

1991, he had appeared before an officer of the INS for an interview in connection with his I-485 application and falsely testified that he had never committed a crime for which he had not been arrested, when, as he well knew, he had attempted to defraud the INS as described in paragraphs 2-5 of the General Allegations section of this Superseding Indictment, but he had never been arrested for that offense.

These false statements were made in violation of Title 18, United States Code, Sections 1001(a), 1546, and 1015(a).

(In violation of Title 18, United States Code, Section 1425(a)).

COUNT 2

WIRE FRAUD

THE GRAND JURY FURTHER CHARGES THAT:

A. Beginning on or about July 19, 1994 and continuing through on or about December 28, 1999, the defendant, TARIK A. HAMDI, aided and abetted by others known and unknown to the grand jury, devised and intended to devise a scheme and artifice to defraud and to obtain money by materially false and fraudulent pretenses, representations and promises, by substantially overstating his income, understating his liabilities, and misrepresenting his employer and length of employment in connection with loans secured by his residence, which scheme and artifice to defraud affected a financial institution, and for the purpose of executing such scheme caused to be transmitted by means of wire in interstate commerce writings, signs, signals, pictures, and sounds as set forth below.

B. It was part of the scheme and artifice to defraud that TARIK A. HAMDI submitted false loan applications to various mortgage lenders which claimed substantially higher income than what he reported to the Internal Revenue Service for the same time period and falsely represented his employer and the length of his employment.

C. It was part of the scheme and artifice to defraud that TARIK A. HAMDI, and another whose identity is known to the grand jury, prepared and caused to be prepared and submitted the false documentation alleged in paragraphs, 10, 18, 22, and 23 of the General Allegations to this Superseding Indictment, to support his false claims in loan applications regarding his income and employment.

D. To further describe the scheme and artifice to defraud, the grand jury realleges paragraphs 10, 13, and 15-24 of the General Allegations of this Superseding Indictment as if set forth fully herein.

E. On or about December 28, 1999, in Fairfax County in the Eastern District of Virginia and elsewhere, defendant, TARIK A. HAMDI, having devised and intended to devise a scheme and artifice to defraud, and to obtain money by false and fraudulent pretenses, representations and promises, which scheme to defraud affected a financial institution, and for the purposes of executing said scheme and artifice, did cause to be transmitted by means of wire communications in interstate commerce writings, signs, signals, pictures, and sounds in that, in connection with the settlement of the 1999 loan, TARIK A. HAMDI caused Financial Mortgage, Inc. to transfer approximately \$119,070 by interstate wire from its bank account at Sterling Bank & Trust in Michigan to the account of “The Law Offices of Sharma & Bhandari,” located at First Union National Bank in Annandale, Virginia.

(In violation of Title 18, United States Code, Sections 1343 and 2).

COUNT 3

CONSPIRACY TO COMMIT WIRE FRAUD

THE GRAND JURY FURTHER CHARGES THAT:

A. Beginning on or about July 19, 1994 and continuing through on or about December 28, 1999, within Fairfax County in the Eastern District of Virginia and elsewhere, the defendant, TARIK A. HAMDI, and others known and unknown to the grand jury, did unlawfully, willfully, and knowingly combine, conspire, confederate and agree together and with others known and unknown to the grand jury, to commit offenses against the United States, specifically, to devise and intend to devise a scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations and promises, which scheme and artifice to defraud affected a financial institution; and for the purpose of executing said scheme and artifice to defraud, to knowingly cause to be transmitted by means of wire communications in interstate commerce certain signs, signals, pictures, and sounds, in violation of Title 18, United States Code, Section 1343.

THE OBJECT OF THE CONSPIRACY

B. The object of the conspiracy was for the defendant, TARIK A. HAMDI, to obtain loans, secured by a mortgage on his residence, by presenting materially false financial information to mortgage lenders, including substantially overstating his income, understating his liabilities, and misrepresenting his employer and length of employment.

THE MANNER AND MEANS OF THE CONSPIRACY

C. It was part of the conspiracy that TARIK A. HAMDI, submitted false loan applications on multiple occasions to mortgage lenders which claimed substantially higher

income than what he reported to the Internal Revenue Service for the same time period and falsely represented his employer and the length of his employment.

D. It was part of the conspiracy that TARIK A. HAMDI, and another whose identity is known to the grand jury, prepared and caused to be prepared and submitted the false documentation alleged in paragraphs, 10, 18, 22, and 23 of the General Allegations to this Superseding Indictment, to support his false claims to the mortgage lenders regarding his income and employment.

E. It was part of the conspiracy that TARIK A. HAMDI and others used, and caused to be used, interstate wires in execution of the scheme.

F. To further describe the manner and means of the conspiracy the grand jury realleges paragraphs, 10, 13, and 15-24 of the General Allegations of this Superseding Indictment as if set forth fully herein.

OVERT ACTS

G. In furtherance of the conspiracy, and to effect the aims and objectives thereof, the conspirators performed overt acts in the Eastern District of Virginia and elsewhere including, but not limited to, the following:

1. On or about July 19, 1994, TARIK A. HAMDI, and others prepared and caused to be prepared and submitted a "Verification of Employment," which falsely stated that his income for the years 1992 through 1994 was approximately \$45,000 a year; and falsely represented that he was an employee of the American Muslim Council ("AMC") and had been employed there since November 1991.
2. On or about July 28, 1994, TARIK A. HAMDI caused the 1994 loan application to be submitted, in which he falsely certified to the mortgage lender, Briner, Inc., that the income and liabilities that he listed in the 1994 loan application were true and correct.
3. On or about April 30, 1997, TARIK A. HAMDI signed the 1997 loan application, in which he falsely certified to the mortgage lender, Financial Mortgage, Inc., that

the income and liabilities that he listed in the 1997 loan application were true and correct.

4. On or about April 30, 1997, TARIK A. HAMDI and others, prepared and caused to be prepared and submitted a false "Verification of Employment" in support of his 1997 loan application which stated that his income for the years 1995 and 1996 was \$56,869.23 and \$57,735.28, respectively; that his income for 1997 was \$4,864 a month; and that he was an employee of AMC and had been employed there since October 1991.
5. On or about November 8, 1999, TARIK A. HAMDI and others, prepared and caused to be prepared and submitted a "Verification of Employment" in support of the 1999 loan application which falsely stated that his income for the years 1997 and 1998 was \$31,334.36 and \$31,963.64, respectively; that his income for 1999 was \$2508.92 a month; and that he was an employee of AMC and had been employed there since April of 1994.
6. Between on or about November 8, 1999 and December 22, 1999, TARIK A. HAMDI and others prepared and caused to be prepared and submitted W-2s for the years 1997 and 1998 in support of the 1999 loan application, which falsely stated that his wages from AMC for the years 1997 and 1998 were \$31,334.36 and \$31,963.64, respectively.
7. On or about December 22, 1999, TARIK A. HAMDI signed the 1999 loan application, in which he falsely certified to Financial Mortgage, Inc. that the income and liabilities that he listed in the 1999 loan application were true and correct.
8. On or about December 28, 1999, in connection with settlement of the 1999 loan, TARIK A. HAMDI caused Financial Mortgage, Inc. to transfer approximately \$119,070 by interstate wire from its bank account at Sterling Bank & Trust in Michigan to the account of "The Law Offices of Sharma & Bhandari," located at First Union National Bank in Annandale, Virginia.

(In violation of Title 18, United States Code, Section 371).

FORFEITURE

If convicted of Counts 2 or 3 of this Superseding Indictment, the defendant shall forfeit all property constituting or derived from proceeds traceable to such violation. This property includes \$121,000 that constitutes the proceeds of the offense.

(Pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2), and Title 28, United States Code, Section 2461.)

A TRUE BILL:

FOREPERSON OF THE GRAND JURY

Paul J. McNulty
United States Attorney

By: _____
Neil Hammerstrom, Jr.
Assistant United States Attorney
Chief, Terrorism & National Security Unit

Gordon D. Kromberg
Assistant United States Attorney

Steven P. Ward
Special Assistant United States Attorney